

Application No. 09/852,209
Reply dated February 7, 2005
Response to Office Action dated October 5, 2004

REMARKS

Claims 36, 46-49, 59 and 60 are pending and under consideration.
Applicants gratefully acknowledge the allowance of Claims 36, 47 and 49.

In order to expedite prosecution of this application, applicants have further amended the claims to recite more clearly and distinctly that which they consider their invention. Specifically, Claims 59 has been amended to remove the recitation of bird or. Applicants respectfully submit that above amendments are fully supported by the specification as originally filed, and request their entry and favorable reconsideration.

Finality of Office Action

The Office Action has been made final. However, applicants respectfully submit that the finality of the Office Action is premature and request that it be withdrawn as the Office Action contains new grounds of rejections that were not a result of applicants previous claim amendments. Applicants' representative thanks Examiner Loraine Spector for the telephone interview on December 3, 2004 with regard to this issue.

Formal Matters

The Office Action continued to object to Figures 13, 14, 20, 26A-V, 27A-F, 28A-F, 30A-D, 31A-D, 32A-D, and 33A-D for their "insufficient quality." Applicants submit, as Attachment I, a copy of these figures which are the best qualify reproduction currently available. Applicants respectfully submit that this copy has overcome these objections. This copy of the figures, while not of the highest possible quality, are sufficient, when read in combination with their respective description in the Specification, to demonstrate the experiment results and support the conclusions drawn therefrom. For example, the specification, at page 40, lines 30-31 states that Figure 13 shows that PDGF-C is not regulated by hypoxia, and the intensities of the band in Figure 13 clearly show so. There is no need, and it was not intended, to show bands in the various lanes (see the full paragraph on page 40 of the Specification).

Similarly, Figure 14 is explained in the specification on page 41 at line 5 *et seq.*, and the darker lanes marked JEG, G401 etc. clearly demonstrate that PDGF-C is expressed in higher levels in these cancer cell lines. No more details are necessary.

Figure 20 is also sufficiently clear. Again, it is the intensity of the lanes that are informative, and no other details are needed (See Example 5 staring on page 47). It shows five lanes, which from the left to right respectively are: (1) no stimulation/control, (2) stimulation by 10 ng/ml of PDGF-AA, (3) stimulation by 100 ng/ml of fIPDGF-CC (full-length), (4) stimulation by 100 ng/ml of cPDGF-CC, and (5) stimulation by 100 ng/ml of cPDGF-CC and 10 ng/ml of PDGF-AA. From this figure, it is clear that, compared to the rest, the full-length PDGF-CC lane was ineffective (similar to the control lane).

Similarly, with regard to Figures 26A-F, 27A-F, 28A-F, 30A-D, 31A-D, and 32A-D, the details contained in the photographs are sufficient, when read in combination with their respective description in the specification, to demonstrate the conclusions of the experiments. For example, Figures 26A-F are explained at page 54, line 4 *et seq.*, and figures 27 and 28 are explained in Example 12. In all cases, the intensities of the staining are clear from the figures, and the relevant spots are marked (e.g., by arrows) to show the differences. With regard to Figure 33, the paragraph bridging pages 62 and 63 states that the microvessel densities induced by the four growth factors were virtually identical, which the figures sufficiently show.

In summary, the figures are of sufficient quality and contain sufficient details to demonstrate the data and conclusions. Accordingly, the objections thereto should be withdrawn.

Claim Rejections under 35 U.S.C. § 112, ¶ 1

Applicants respectfully submit that the rejections of Claims 59 and 60 have been overcome by the claim amendment.

Claim Rejections under 35 U.S.C. § 102

The Office Action rejected Claims 46, 48, 59 and 60 under 35 U.S.C. § 102(e) for alleged anticipation over U.S. Pat. No. 6,528,050 (Gao et al.), asserting that the Gao patent discloses the full-length and truncated PDGF-C protein sequences and method of using the protein consistent with the instantly claimed method.

Without admitting that the Gao et al. patent actually discloses the subject matter as asserted in the Office Action, applicants respectfully submit that the Gao et al. patent is not prior art to the claims 46, 48, 59 and 60. According to the Office Action, the Gao et al. patent has an effective priority date of December 7, 1998. The inventors for the instantly claimed method have invented the claimed invention prior to that date.

Applicants submit, as Attachment II, a declaration by Dr. Karin Aase ("the Aase Declaration"), one of the named inventors. As made clear by the Aase Declaration (and Exhibit I thereto), before December 7, 1998, Dr. Aase along with the other inventors of the instant patent application, had conceived and reduced to practice at least amino acid residues of 230-345 of SEQ ID NO: 3 and SEQ ID NO: 7, the truncated and activated VEGF homology domain of a PDGF-C molecule (referred to as VEGF-F at the time). Dr. Aase and the other inventors were in possession of the complete amino acid sequence of SEQ ID NO: 7 (referred to as mVEGF-F) of 345 amino acids, and had recognized that the full-length polypeptide was cleaved at position 230 to yield the activated fragment having amino acids 230-345. The Aase Declaration also shows that Dr. Aase and the other inventors were in possession of the C-terminal 318 amino acid sequence of SEQ ID NO: 3 (referred to as hVEGF-F), which included the

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complete sequence of the truncated and activated VEGF homology domain of a PDGF-C molecule corresponding to amino acids 230-345 of SEQ ID NO: 3. At that time, the inventors also recognized that the hVEGE-F and mVEGF-F had an amino acid sequence identity of about 86%, and that these novel proteins, VEGF-F (subsequently renamed as PDGF-C), had the ability to promote fibroblast mitogenesis in a mammal.

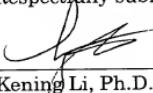
In summary, the inventors of the instant application had reduced to practice of the invention claimed in instant Claims 46, 48, 59 and 60 prior to December 7, 1998. Accordingly, it is respectfully submitted that Gao et al. is not prior art to these claims and the rejections are not proper and should be withdrawn.

It is believed that all claims are now allowable and this application is in condition for allowance. Applicants earnestly solicit an early indication from the examiner to that effect. If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (CAM #029065.44740CP).

Respectfully submitted,

February 7, 2005



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